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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)

2,808 cases, more or less, of an)
article of food, each case containing)
6/3 liter tins, labeled in part:)

Civil Action No.

FORFEITURE
(case)

COMPLAINT FOR

**** EXTRA VIRGIN OLIVE OIL ****)
"HERMES" *** 6 X 3 LT *** PACKED IN)
ITALY ****)

(tin))

**** HERMES *** EXTRA VIRGIN OLIVE)
OIL *** Net Content 3 Liters ***)
DISTRIBUTED BY: KRINOS FOODS, INC.)
LONG ISLAND CITY, NY *** Packed in)
Italy *** L 97-05 ****)

607 cases, more or less, of an)
article of food, each case containing)
6/3 liter tins, labeled in part:)

(case))

**** EXTRA VIRGIN OLIVE OIL **** "SAN)
GIOVANNI" *** 6 X 3 LT *** PACKED IN)
ITALY ****)

(tin))

**** SAN GIOVANNI *** Extra Virgin)
Olive Oil *** 3 LITERS *** PRODUCT OF)
ITALY *** PACKED IN ITALY FOR DMK)
MARKETING LLC. *** East Moriches, NY)
*** L. 110-05 ****)

1,440 cases, more or less, of an)
article of food, each case containing)

6/3 liter tins, labeled in part:)
 (case))
 "**** OLIVE POMACE OIL **** "HERMES")
 *** 6 X 3 LT *** PACKED IN ITALY ***")
 (tin))
 "**** HERMES *** POMACE OLIVE OIL ****)
 Net Content 3 Liters *** 100% GREEK)
 OIL *** Packed in Italy *** L 98-05)
 *** IMPORTED AND DISTRIBUTED BY:)
 KRINOS FOODS, INC. LONG ISLAND CITY,)
 NY ***, ")
 Defendants.)
 _____)

The United States of America, by and through its attorney, Christopher J. Christie, United States Attorney for the District of New Jersey, and Rudolph A. Filko, Assistant United States Attorney, respectfully represents as follows:

1. This Complaint is filed by the United States of America, and requests seizure and condemnation of articles of food, as described in the caption, in accordance with the Federal Food, Drug, and Cosmetic Act ("the Act"), 21 U.S.C. § 301 et seq.

2. The government brings this in rem forfeiture action pursuant to 21 U.S.C. § 334.

3. This Court has subject matter jurisdiction under 21 U.S.C. § 1345.

4. In the possession of Quivican Trucking Corp., 495 River Road, Clifton, New Jersey, or elsewhere within the jurisdiction of this Court, there are articles of food, as described in the caption above (hereafter, "the defendant articles"), that are stored to the account of DMK Global Marketing, LLC, Bridgewater, New Jersey. The defendant articles are held for sale after they

have been shipment in interstate commerce from outside the State of New Jersey.

5. The defendant articles are adulterated within the meaning of the Act, 21 U.S.C. § 342(b)(2), in that soybean oil (or similar substance) has been substituted in whole or in substantial part for extra virgin olive oil (2,808 and 607 case lots) and for pomace olive oil (1,440 case lot).

6. The defendant articles are misbranded within the meaning of the Act, 21 U.S.C. § 343(a)(1), in that the name on their labeling is false and misleading. For example:

a. 2,808 and 607 case lots are labeled as "Extra Virgin Olive Oil," but these cases lots consist almost entirely of soybean oil; and

b. 1,440 case lot is labeled as "Pomace Olive Oil," but this case lot consists almost entirely of soybean oil.

7. By reason of the foregoing, the articles are held illegally within the jurisdiction of this Court and are liable to seizure and condemnation pursuant to 21 U.S.C. § 334.

WHEREFORE, plaintiff United States of America prays that:

(a) process issue against the defendant articles;

(b) all persons having any interest in the defendant articles be cited to appear herein and answer the allegations of the Complaint;

(c) this Court decree the condemnation of the defendant articles and grant plaintiff the costs of this proceeding against any claimant to the defendant articles;

(d) the defendant articles be disposed of as this Court may direct pursuant to the provisions of the Act; and

(e) plaintiff have such other and further relief as the case may require.

CHRISTOPHER J. CHRISTIE
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By: _____
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OF COUNSEL:

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United States Department of
Health and Human Services
Office of the General Counsel

VERIFICATION

I, PATRICIA A. CLARK, Compliance Officer for the U.S. Food and Drug Administration (FDA), New York District Office, declare under penalty of perjury, as provided by 28 U.S.C. § 1746, the following:

The information contained in the foregoing Complaint for Forfeiture is either known to me personally or was furnished to me by official government sources. To the best of my knowledge and belief, the allegations set out in the Complaint for Forfeiture are true and correct.

Executed on this _____ day of January, 2006.

PATRICIA A. CLARK
Compliance Officer
New York District, FDA